

## **CIVIL JUSTICE FORECLOSURE PROGRAMS: AN OVERVIEW FOR HOUSING COUNSELING AGENCIES**

Maryland homeowners facing foreclosure have to deal with a complicated range of legal issues and may benefit from meeting with and retaining an attorney. Homeowners facing a foreclosure-related issue who are deemed income eligible may qualify for pro bono (free) legal services. Generally, homeowners who make 50% or less of Maryland's median income can qualify for free legal representation with Maryland Legal Aid or pro bono legal service providers. Maryland Volunteer Lawyers Service and some pro bono providers are able to take clients who make slightly more income, but must still be within their income eligibility guidelines.

If you have a homeowner who is facing a foreclosure you can refer them directly to Civil Justice at (410) 706-0174. Civil Justice intake staff can conduct an intake and determine which in house servicers, referrals to Civil Justice Network Attorneys, or external agencies may provide the most suitable assistance. If the homeowner appears to be low-income, you can refer them to Legal Aid or a pro bono legal service provider, or you can refer them to Civil Justice – we will always refer homeowners to pro bono legal service providers if they qualify.

### **Summary of Civil Justice Foreclosure Programs**

#### ***Low Bono Mediation - \$500 fee***

Civil Justice's Foreclosure Low Bono Mediation Program has assisted hundreds of homeowners who do not qualify for free legal representation in foreclosure mediations, but cannot easily afford an attorney. Households with less than \$100,000 in yearly income qualify for representation through the Low Bono Foreclosure Mediation Program for a fee of \$500. Representation includes attending the mediation session, meeting with clients by phone or in person prior to the mediation and agreeing limited follow up after the mediation (submitting information to the servicer or to the servicer's attorneys, etc.). It does not include additional legal work such as filing motions in court or filing bankruptcy.

#### ***Foreclosure Recovery - Free***

Civil Justice's Foreclosure Recovery program provides Marylanders who have suffered a foreclosure-event with a free consultation with an attorney to discuss outstanding legal issues. The attorney reviews credit reports, legal notices, and budgets and provides an action plan for the client to implement that will help clients with their financial recovery. Topics covered include advice regarding bankruptcy filing, disputing errors on credit reports, writing good will letters to creditors, and communicating with potential landlords.

#### ***Foreclosure Mediation Brief Advice - Free***

Civil Justice and Maryland Volunteer Lawyers Service operate the Foreclosure Mediation Brief Advice Program at the Office of Administrative Hearings' (OAH) Hunt Valley office, the location where most Baltimore City and Baltimore County foreclosure mediations are held. Currently, the program operates on Mondays and Wednesdays from 8 am to 4pm. An attorney is available to answer questions from homeowners about their foreclosure cases and the mediation process and provide resources and a list of referrals for follow up. Attorneys will not represent the homeowner at the mediation itself. The program may expand to other areas in Maryland. Homeowners from throughout the state can come to the Hunt Valley OAH location for this free consultation.

#### ***Attorney Referrals – Fees vary***

For homeowners who are not eligible for free legal services, Civil Justice operates a referral service and will refer individuals to CJ Network attorneys who can help clients on a range of foreclosure related legal issues. CJ Network attorneys are solo and small firm private attorneys who have agreed to provide affordable rates to clients referred through Civil Justice. The client will need to discuss the fee and payment arrangements with whichever attorney they decide to hire. Examples of the types of services the attorneys can provide include drafting an emergency Motion to Stay a Sale, filing bankruptcy, or negotiating with third parties during a short sale on behalf of a homeowner.

#### ***Low Bono Bankruptcy Program – Fees vary***

The Civil Justice Bankruptcy Program provides legal representation in bankruptcy court to homeowners for whom bankruptcy provides a viable option for keeping their homes. Clients whose household income is less than 400% of the federal poverty guidelines are eligible. Fees depend on the type of bankruptcy filed (Chapter 7 or 13) and the client's income.

**Comparing Civil Justice Programs with other Foreclosure Prevention Legal Programs**

<b>Organization:</b>	<b>Civil Justice Inc.</b>	<b>Maryland Volunteer Lawyers Service and other Pro Bono Legal Service Providers (CLS, St. Ambrose, Mid Shore Pro Bono, Alleghany Law etc.)</b>	<b>Maryland Legal Aid Bureau</b>
<i>Eligibility criteria for clients:</i>	Serves low and moderate income clients. Households making less than \$100,000 are eligible for Low Bono mediation (\$500) and Foreclosure Recovery (free). All callers regardless of income can receive attorney referrals and fees are negotiated with attorneys. For CJ Bankruptcy Program, eligibility is based on 400% of the federal poverty guidelines. Immigration status does not matter.	Serves low income clients as based on family size. For MVLS and CLS, income must be 70% of Maryland Median Income for foreclosure representation. Immigration status does not matter. Income guidelines may vary for other organizations.	Serves low income clients as based on family size. Income must be 50% of Maryland Median Income. Only US Citizens and Permanent Residents can be clients.
<i>Scope of legal services provided</i>	<i>Low Bono Mediation</i> –representation is for attending mediation session, with limited follow-up with the servicer, such as sending documents or emails on behalf of client. <i>Attorney Referrals</i> – Network attorneys can take on many foreclosure issues, including mediations, motions to stay, bankruptcy etc., but will charge a fee.	MVLS can place cases with volunteer attorneys for many foreclosure issues, including mediations, motions to stay, bankruptcy etc.	Staff Attorneys are able to help eligible clients on a range of foreclosure issues, including mediations, motions to stay, bankruptcy etc.
<i>Cost of representation:</i>	Low Bono Foreclosure Mediation is \$500. Foreclosure Recovery and Mediation Brief Advice are free. Attorney Referrals to CJ network attorneys are given at no cost, but attorneys will charge for legal services provided – rates vary by attorney and are not controlled by CJ.	Mediation and other representation are free for homeowners once they meet income eligibility. Note: MVLS cannot take foreclosure clients in Prince George’s County.	Mediation and other representation is free for homeowners once they meet income eligibility and residency guidelines
<i>Attorney compensation:</i>	CJ Network members are private solo or small firm attorneys. Their income comes from fees paid by clients. For some CJ programs, Network attorneys are paid a stipend by CJ. If a client who participates in a CJ program wants an attorney to do additional work on their case, (motions to stay, bankruptcy, etc.), they can hire the attorney for a fee.	MVLS cases are handled by private volunteer attorneys, who take on the cases for free. Some compensation may be provided to the attorney by MVLS; however, the vast majority are pro bono (meaning the attorney does not get paid).	Attorneys are staff members and are paid a salary that is not based on specific cases.

## **The Value of Legal Representation for Maryland Homeowners**

Having an attorney during the mediation is helpful to a homeowner even when they are working with a housing counselor. Civil Justice Attorneys often say that they prefer having homeowners work with housing counselors during the foreclosure process, as housing counselors are able to get the proper documents submitted for a loan modification. Housing counselors ensure that documents are filled out properly, and ensure that the homeowner is not getting denied a modification because documents were not submitted timely or properly.

Foreclosure mediations in Maryland provide a homeowner with the opportunity to meet with a representative of their mortgage servicer with authority to make decisions on the loan and to discuss alternatives to foreclosure. At the mediation, a neutral administrative law judge must be present, and the servicer usually sends an attorney on their behalf to advocate for their interests. To save the house, or to find the best non home-retention alternative, it is vital that the homeowner attends the mediation with an attorney.

Attorneys can provide clients with a realistic assessment of their legal options. Attorneys attending mediation on behalf of a homeowner may be able to find possible violations of federal and state laws regarding mortgage servicing. Attorneys will be able to tell servicers that they must give a single point of contact for the modification application, and will be able to tell homeowners what programs they are eligible for, depending on servicer's agreement and investor guidelines. Attorneys, alongside housing counselors, can explain the timeline of the foreclosure post-mediation to the homeowner. They can clarify with the substitute trustees and the bank what activities constitute dual tracking under Maryland and federal law.

Oftentimes, Civil Justice attorneys send a follow up email to the substitute trustees so they can assure that once a full loan modification packet is submitted, no sale will occur. If a sale does happen, attorneys oftentimes contact the bank's attorneys and make them pull the sale. When an attorney is involved, oftentimes the games stop as far as missing documents, and the banks seem to take modification applications more seriously.

### **Website Resources**

- Civil Justice Inc (CJ): <http://www.civiljusticenetwork.org>
- Legal Aid Bureau: <http://www.mdlab.org/>
- Maryland Volunteer Lawyers Service (MVLS): <http://www.mvlslaw.org/>
- St Ambrose Housing Aid Center: <http://www.stambros.org/>
- Community Legal Services of Prince George's County (CLS): <http://www.clspgc.org/>
- Mid Shore Pro Bono: <http://midshoreprobono.org>
- Alleghany Law: <http://www.alleganylaw.com>